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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,451	03/25/2004	D'Miles Salmon	ZEPH-00201	1772
28960	7590	06/28/2006	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			STOCK JR, GORDON J	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

*u*

**Office Action Summary**

Application No.

10/811,451

Applicant(s)

SALMON, D'MILES

Examiner

Gordon J. Stock

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040526.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Examiner finds the arguments in relation to the election with traverse on June 12, 2006 persuasive. Therefore, the Examiner has withdrawn the election/restriction requirement. Subsequently, claims 1-24 will be treated for their merits in the action following.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on May 26, 2004 is being considered by the examiner.

### ***Drawings and Specification***

3. The drawings and specification are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 231 of Fig. 2b. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second optical configuration for filtering background light from the second receiver of **claim 4** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1, 2, 5, 6, 8-14, 16-18, 20 and 24** are rejected under 35 U.S.C. 102(a) as being anticipated by **Hart (6,375,579)**.

As for **claim 1**, Hart discloses a golf swing analysis system comprising: a first transmitter and a first receiver (Fig. 2: 16 and 34); a second transmitter and a second receiver (Fig. 2: 20, 32); an indicator, display unit (Fig. 2: 46).

As for **claim 2**, Hart discloses everything as above (see **claim 1**). In addition, he discloses the first transmitter is a laser (Fig. 2: 16) and the second receiver is a photosensor for detecting the laser light (Fig. 2: 20).

As for **claim 5**, Hart discloses everything as above (see **claim 1**). In addition, he discloses the second transmitter is a radio frequency generator (Fig. 2: 32) and the first receiver is a radio frequency receiver (Fig. 2: 34).

As for **claim 6**, Hart discloses everything as above (see **claim 1**). In addition, he discloses the indicator is a display element (Fig. 2: 46).

As for **claim 8**, Hart discloses everything as above (see **claim 1**). In addition, he discloses the first transmitter and the first receiver are configured to detachably couple to the positioning object (col. 8, lines 45-46) when the first transmitter and first receiver are considered the sensor and rf transmitter of the sensor module (Fig. 1: 44 and Fig. 2: 20 and 32).

As for **claim 9**, Hart discloses everything as above (see **claim 1**). In addition, he discloses the second transmitter and the second receiver are configured to be removably positioned near the target object, the golf ball (col. 8, lines 48-50) when the second transmitter

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and second receiver are considered the laser and rf transmitter of the base unit (Fig. 1: 42 and Fig. 2: 16 and 34).

As for **claim 10**, Hart discloses the following: means for generating positioning signals from the object in a direction corresponding to the trajectory of the object (Fig. 2: 16); means for detecting the positioning signals when the trajectory of the object is laterally aligned with the target area (Fig. 2: 20); means for generating alignment signals when the positioning signals are detected (Fig. 2: 32); means for detecting the alignment signals (Fig. 2: 34).

As for **claim 11**, Hart discloses everything as above (see **claim 10**). In addition, he discloses a laser device (Fig. 2: 16).

As for **claim 12**, Hart discloses everything as above (see **claim 11**). In addition, he discloses the laser device is configured to emit an elongated laser beam (col. 4, lines 5-6).

As for **claim 13**, Hart discloses everything as above (see **claim 13**). In addition, he discloses the means for detecting positioning signals is configured to detect axial alignment (col. 5, lines 19-22; col. 7, lines 10, 35, and 45).

As for **claim 14**, Hart discloses everything as above (see **claim 10**). In addition, he discloses the means for detecting positioning signals comprises a photodetector device (Fig. 2: 20; col. 4, lines 38-39).

As for **claim 16**, Hart discloses everything as above (see **claim 10**). In addition, he discloses the means for generating the alignment signals comprises an rf transmitter (Fig. 2: 32).

As for **claim 17**, Hart discloses everything as above (see **claim 16**). In addition, he discloses the means for detecting the alignment signals comprises an rf receiver (Fig. 2: 34).

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As for **claim 18**, Hart discloses everything as above (see **claim 18**). In addition, he discloses means to communicate when the trajectory of the object is laterally aligned with the target (col. 5, lines 19-22; col. 2, lines 5-8).

As for **claim 20**, Hart discloses the following: a target unit for positioning near a target (Fig. 1: 42); a positioning unit for coupling to an object (Fig. 1: 44), wherein the positioning unit communicates a positioning signal to the target unit and the target unit communicates an alignment signal to the positioning unit when the positioning unit and the target unit are in alignment (col. 2, lines 5-8; Fig. 2: 18 and 33).

As for **claim 24**, Hart discloses everything as above (see **claim 20**). In addition, he suggests the positioning unit is configured to couple to a golfing putter (Fig. 1: 44; col. 8, lines 45-46) for the sensor may be attached to any golf club (col. 9, line 8) and the target unit is configured to be positioned near a golf ball target (Fig. 1: 42; col. 8, lines 48-50); wherein the positioning and alignment system monitors positioning and alignment of a golfer's putting trajectory (col. 5, lines 18-20).

7. **Claims 20, 21, and 22** are rejected under 35 U.S.C. 102(b) as being anticipated by **Kobayashi (4,979,745)**.

As for **claim 20**, Kobayashi discloses the following: a target unit (Fig. 1: 2); a positioning unit coupled to a golf club (Fig. 1: 3); wherein the positioning unit communicates a positioning signal to the target unit and the target unit communicates an alignment signal to the positioning unit when the positioning unit and the target unit are in alignment (col. 5, lines 45-67; col. 6, lines 1-25).

As for **claim 21**, Kobayashi discloses everything as above (see **claim 20**). In addition, he discloses the positioning unit is configured to illuminate light when the target unit communicates the alignment signal to the positioning unit (Fig. 4: 31; col. 3, lines 51-56).

As for **claim 22**, Kobayashi discloses everything as above (see **claim 20**). In addition he discloses the positioning unit comprises an optical transmitter (col. 3, lines 35-37).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Hart (6,375,579)**.

As for **claim 3**, Hart discloses everything as above (see **claim 2**). He does not explicitly mention an optical configuration for projecting the laser light into an elongated laser beam. However, he states that the laser source provides a plane shaped laser beam (col. 4, lines 5-6). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made that Hart's system had an optical configuration in order to project the laser beam into an expanded plane shape.

10. **Claims 4, 7, 15, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hart (6,375,579)** in view of **Goszyk (6,095,928)**.

As for **claims 4 and 15**, Hart discloses everything as above (see **claims 3 and 14**). He is silent concerning a second optical configuration or having the photodetector device selectively detecting laser light. However, Goszyk in a three-dimensional object path tracking system



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teaches a high-pass filter for selectively detecting the light of the system rather than ambient light and a spatial filter (col. 6, lines 1-15; col. 10, lines 40-45). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to have a second optical configuration such as a spatial filter and a high pass filter in order to have the sensor only detect light from the laser in the base unit without ambient light from the background to increase the signal to noise ratio.

As for **claim 7**, Hart discloses everything as above (see **claim 6**). He does not state that the display element generates light. However, Goszyk in a three-dimensional object path tracking system teaches having a display element generating light (col. 4, lines 18-20). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to have the display element generate light in order to make the data accumulated visible to a viewer.

As for **claim 19**, Hart discloses everything as above (see **claim 18**). And he discloses a display unit (Fig. 2: 46) He does not state that the display element generates light. However, Goszyk in a three-dimensional object path tracking system teaches having a display element generating light (col. 4, lines 18-20). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to have the display element generate light in order to make the data accumulated visible to a viewer.

11. **Claim 23** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kobayashi (4,979,745)** in view of **Boscha (2002/0173365)**.

As for **claim 23**, Kobayashi discloses everything as above (see **claim 20**). Kobayashi discloses the claimed invention except that transmitter/receiver systems are optical (col. 3, lines

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28-40) instead of being radio frequency, Boscha in a system for controlling conditions in putting shows that radio transmitter/receiver is an equivalent structure known in the art (paragraph 0069). Therefore, because these two were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute an ir transmitter/receiver system for a radio frequency transmitter/receiver system.

12. **Claim 24** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kobayashi (4,979,745)**

As for **claim 24**, Kobayashi discloses everything as above (see **claim 20**). In addition, he discloses the positioning unit is configured to couple to a golf club (Fig. 1: 3); a target unit configured to be positioned near a golf ball target (Fig. 1: 2; col. 13, lines 50-53); wherein the positioning and alignment system monitors positioning and alignment of a golfer's swinging trajectory (col. 5, lines 45-55); wherein, the system monitors a practice swing (col. 1, lines 29-32). He does not explicitly state that the golf club may be a putter. However, Examiner takes Official Notice that putters are well-known types of golf clubs. It would be obvious to one of ordinary skill in the art at the time the invention was made to have the golf club be a putter in order to monitor a putting stroke while practicing putting to help improve a golfer's putting stroke.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent 5,419,562 to Cromarty

14. Several facts have been relied upon from the personal knowledge of the examiner about which the examiner took Official Notice. Applicant must seasonably challenge well known

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statements and statements based on personal knowledge when they are made by the Board of Patent Appeals and Interferences. In re Selmi, 156 F.2d 96, 70 USPQ 197 (CCPA 1946); In re Fischer, 125 F.2d 725, 52 USPQ 473 (CCPA 1942). See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice). If applicant does not seasonably traverse the well-known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well known statement was made.

### ***Fax/Telephone Numbers***

If the applicant wishes to send a fax dealing with either a proposed amendment or a discussion with a phone interview, then the fax should:

- 1) Contain either a statement "DRAFT" or "PROPOSED AMENDMENT" on the fax cover sheet; and
- 2) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

*Papers related to the application may be submitted to Group 2800 by Fax transmission. Papers should be faxed to Group 2800 via the PTO Fax machine located in Crystal Plaza 4. The form of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Machine number is: (571) 273-8300*

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gordon J. Stock whose telephone number is (571) 272-2431.

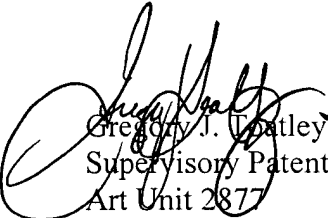
The examiner can normally be reached on Monday-Friday, 10:00 a.m. - 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr., can be reached at 571-272-2800 ext 77.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gs

June 20, 2006

  
Gregory J. Toatley, Jr.  
Supervisory Patent Examiner  
Art Unit 2877